



U.S. DEPARTMENT OF VETERANS AFFAIRS
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December 30, 2004

REGIONAL LOAN CENTER MEMORANDUM NO. 04-16a

To: Lenders, Fee Appraisers, and Real Estate Personnel

SUBJ: The Veterans Benefits Act of 2004

1. PURPOSE: The President signed Public Law 108-454, the Veterans Benefits Act of 2004, on December 10, 2004. This memorandum explains provisions affecting the Loan Guaranty Program.

2. BENEFIT CHANGES:

a. Maximum Guaranty Amount. The law changes the maximum guaranty amount of \$60,000, for certain loans in excess of \$144,000, to an amount equal to 25 percent of the Freddie Mac conforming loan limit determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a single family residence, as adjusted for the year involved. To illustrate, the maximum guaranty for 2005 would be \$89,912. This is 25 percent of the 2005 Freddie Mac conforming loan limit for a single family residence of \$359,650. Under Freddie Mac's charter, maximum original loan amounts are 50 percent higher for first mortgages on properties in Alaska, Hawaii, Guam and the U.S. Virgin Islands. This higher amount would also apply to VA loans in these areas.

b. Specially Adapted Housing. The law expands eligibility to the \$50,000 Specially Adapted Housing (SAH) grant to veterans with permanent and total service-connected disabilities due to the loss of, or loss of use, of both upper extremities such as to preclude use of the arms at or above the elbows. Detailed instructions to VA field stations will be forthcoming. In addition, Title 38, Section 1151, is amended to specify eligibility where any veteran has suffered an injury, or an aggravation of an injury, as the result of hospitalization, medical or surgical treatment, as if it were service-connected for benefits under Chapter 21, relating to SAH.

c. Adjustable Rate Mortgages. The law gives VA authority to guarantee “traditional” Adjustable Rate Mortgages (ARMs) in a manner similar to that by which HUD insures adjustable rate mortgages under section 251 of the National Housing Act. VA previously had this authority but it expired September 30, 1995. The legislation provides authority through September 30, 2008. Key features of this program are:

- (1) Interest rate adjustments on an annual basis;
- (2) Annual interest rate adjustments limited to a maximum increase or decrease of 1 percentage point;
- (3) Interest rate increases limited to a maximum of 5 percent points over the life of the loan;
- (4) This type of ARM loan **MUST** be underwritten at 1 percentage point above the initial rate.

d. Hybrid ARM Loans.

(1) *Extension of Authority*. The law extends VA authority to guarantee hybrid ARM loans to September 30, 2008.

(2) *Modification of Interest Rate Adjustment Requirements*.

(a) If the initial contract interest rate remains fixed for less than 5 years, the initial adjustment is limited to a maximum increase or decrease of 1 percentage point and the interest rate increase over the life of the loan is limited to 5 percentage points.

(b) If the initial contract interest rate remains fixed for 5 years or more, the initial adjustment will be limited to a maximum increase or decrease of 2 percentage points.

(c) In cases where the initial interest rate remains fixed for 5 years or more, the interest rate increase over the life of the loan will be limited to 6 percentage points.

(d) After the initial interest rate adjustment, annual adjustments thereafter remain limited to 1 percentage point.

- (3) *Effect on hybrid ARMS Guaranteed prior to Enactment of the Act.* The provisions of this Act will not affect existing hybrid ARMs. VA hybrid ARM loans made prior to this Act will be subject to the terms in effect at the time they were made. For example, a hybrid ARM with an initial fixed rate for 5 years or more made prior to this Act is limited to a 1 percentage point initial adjustment and a 5 percent limit over the life of the loan.
- e. Native American Direct Loan Program (NADL). The authority to make direct loans under the NADL program has been extended to December 31, 2008.
- f. Funding Fee Exemption. The law expands the definition of veterans who are in receipt of compensation and thus entitled to a waiver of the VA funding fee. Veterans who are rated eligible to receive compensation as a result of a pre-discharge disability examination and rating will now be considered as receiving compensation as of that date. This means veterans still on active duty awaiting discharge, but who wish to close on a loan before being released from the military, may be entitled to a waiver of the funding fee.
- g. Effective Date. All provisions became effective upon the signing of the Act into law.
- h. Temporary Procedures. Until VA accomplishes necessary system updates, automatic lenders closing loans involving entitlement greater than \$60,000 or traditional 1 year ARMs must submit them to the appropriate VA office for issuance of guaranty. We will put notification on the Veterans Information Portal when system updates have been accomplished and lenders can then submit applicable loans through Web-Based Loan Summary Sheet (WBLS).
3. QUESTIONS: For additional information or questions, e-mail the St. Paul Regional Loan Center at RLC335@vba.va.gov or call (800) 827-0611.

/s/ D. F. MUNRO
D. F. MUNRO
Loan Guaranty Officer